



Mental Health and Disability Services Redesign 2011

Judicial-DHS Workgroup Minutes

September 27, 2011

10:00 am to 3:00 pm

Judicial Branch Building, Room 165

1111 East Court Avenue, Des Moines, IA

MINUTES

Attendance

Workgroup Members: Beth Baldwin, Dan Royer, Deb Littlejohn, Deb Schildroth, Diane Brecht, David Boyd, Gretchen Kraemer, Jerry Mays, Director John Baldwin, Karalyn Kuhns, Kathy Butler, Kelly Yeggy, Kim Wilson, Linda Brundies, Mary Ann Gibson, Ron Berg, Steve Hoffman, Terry Rickers, Virgil Gooding

Legislative Representation: Representative Mark Smith, Representative Julian Garrett

Facilitator: Donna Richard-Langer, Iowa Department of Human Services

DHS Staff: Karen Hyatt

Other Attendees:

Amy Campbell	Iowa Psychological Association, League of Women of Iowa
Anna Hyatt-Crozier	House Democratic Staff
Bill Freeland	House Democratic Caucus
Cathy Engel	Iowa Senate Democrats
David Higdon	Polk County Health Services
Donna Ray	Mental Health Advocate
Jackie Bailey	Patient Advocate, Black Hawk Grundy
Kay Grother	AMOS / NAMI
Lee Haupt	Judicial Patient advocate
Linda Hinton	ISAC
Lisa Swanson	Mental Health Advocate
Marquetta Huffman	Mental Health Advocate
Marty Ryan	Justice Reform Consortium, Fawkes-Lee and Ryan
Nancy Fischer	Mental Health Advocate
Rachele Hjelmaas	Legislative Service Agency, Legal Division
Ronda Bennett	Department of Inspections and Appeals
Rose McVay	Mental Health Advocate

Susan Cameron
Stephanie Kuhn
Teresa Bomhoff
Zeke Farley

Iowa Sheriffs and Deputies
Mental Health Advocate
Mental Health Planning Council
House Democratic Caucus

Agenda

Agenda Topics:

- Introduction of members, guests, co-chairs and facilitator
- Review of meeting and follow up tasks
- Materials, meeting minutes, documents on the website
- Task: The role, supervision and funding of the mental health and substance-related disorder advocates
- Presentation #1 Rose McVay, representing Judicial Advocates for Mentally Ill
- Group discussion and initial recommendation
- Task: Comprehensive training of law enforcement in dealing with persons in crisis
- Presentation #2 Kim Wadding and Cyndee Davis
- Group discussion
- Initial recommendations by workgroup
- Public comment
- Adjourn

Review of meeting and follow-up tasks:

- A suggestion was made to have two public comment opportunities directly after each topic presented given the difference in presentation content. Group consensus to change the format for this meeting.
- Review of the recommendation that jail diversion is to be considered as a core service.
- Review of Director Chuck Palmer's statement to the workgroup requesting recommendations for the legislative workgroup process.

Task: The role, supervision and funding of the mental health and substance-related disorder advocates

Presentation #1 and Discussion

Rose McVay, Mental Health Advocate for the 7th Judicial District

The Code of Iowa, section 229.19, governs the Mental Health Advocate position. The District Court in each county with a population of less than 300,000 persons is required to appoint a mental health advocate to represent the interests of clients involuntarily hospitalized by the Court. Polk County has a population over 300,000 and an advocate is appointed by the board of supervisors.

If a person is found to be seriously mentally ill by the court, an advocate is appointed to serve their interest as is defined in Code section 229.9A.

Primary Duties:

- Review the reports, orders and applications submitted on the client pursuant to Chapter 229 of the Code of Iowa.
- Advise the Court at any time if it appears the services of an attorney are needed to safeguard the client's interests.
- Be available to receive communications from the client and to communicate with the client directly within 5 days of the client's commitment.
- To visit the client face-to-face within 15 days of the commitment.
- To communicate with medical personnel treating the client as necessary and review the client's medical records.
- To file quarterly reports stating the actions taken with respect to the client and the amount of time spent.
- May attend the hospitalization hearing of any respondent for whom the advocate has received notice of a hospitalization hearing.

Current concerns:

- While a job description exists it is not being utilized consistently across the state and not one entity has responsibility to oversee the job description functions.
- The advocates are not using a consistent title; examples of mental health advocate, patient advocate were given.
- There is discrepancy in the county courts on which county allows the mental health advocate to attend hearings.
- There is not consistency in Iowa's counties regarding billable criteria including wages, benefits and reimbursement costs.
- Where the mental health advocate should be housed is not defined in Iowa code and a huge variable exists across the state - some advocates work in offices, at home, in court buildings etc.
- Not all advocates know the chief judge assigned to the cases.
- Some counties allow advocates to serve juveniles and others do not.
- Report forms are not consistent, nor do they have standardized content criteria and there is not a system for receipt of the report.

Beth Baldwin, District Court Administrator

The Chief Judge is the head of each judicial district and is the designated position in 229.19 to appoint the Mental Health Advocate in counties with populations of 300,000 or less. In Iowa this pertains to all counties except Polk County.

Current Concerns:

- In an involuntary commitment, the chief judge appoints a mental health advocate to the individual; however, the county of legal resident pays for the mental health advocate services.
- The statute of 229.19 implies that the state supervises the mental health advocate position; however, there is not a state entity designated for this responsibility and the position is handled differently depending on the county.

- The judicial branch and judges are well versed in mental health law; however, the court administrator does not have the same training in mental health, which can pose a challenge in providing supervision to the advocates.
- The mental health advocate may be in a position to advocate against the court, the county system and/or a service provider. This can cause conflict within the system when there is not a designated entity to support the advocate in these cases. In addition because there is not designated oversight of the advocate position or any mandatory policies and procedures in place; support, conflict resolution and supervision are difficult.
- The lack of policy and procedure for the mental health advocate results in lack of consistency and service offering for the individual being involuntary committed.
- Mental health advocates do not have access to a core curriculum or best practice training.
- Files on an individual being involuntary committed are not audited. There are no procedures in place for confidentiality or on how to close a case or how long records are kept. An example was given in a county where case files are kept in a person's garage in an unlocked container.
- There are no standards for salary, reimbursement of expenses or type of position (hourly vs. salaried) thus wages vary from \$10.00 to \$25.00 per hour. There are no educational criteria for qualification to be an advocate.
- Iowa does not have a current policy for providing service to juveniles who are being involuntarily committed resulting in some counties paying for this service while other counties do not.
- 229.19 does not mandate when the mental health advocate role is activated and some counties will pay for the advocate to attend the first hearing while other counties will not.

Kelly Yeggy, Mental Health Advocate Polk County:

- A key to success in the position of an advocate is to help protect the rights of the client by being able to work in the least restrictive (autonomous) environment.
- Terminology is different between state, county and community systems and mental health advocates spend significant time educating themselves on community resources.
- Lack of training is a concern as each advocate comes with a different background and work history.
- In Polk County, due to the work of the advocate, involuntary commitment filings are down from approximately 450 individuals to 115 in a given year. This saves resources within the court, the hearing, cost of initial filing, the clerk duties and the judge review and process.
- Caseloads of the advocate vary between counties and are not consistent. For example, Polk County has 102 adults under involuntary commitment while Johnson County has 400.
- A review was conducted of other states and there were four primary areas of difference: supervision, funding, policy and procedure.

Discussion of workgroup:

- The criterion for how many counties and clients an advocate handles was questioned and explained that the chief judge makes the determination.
- The legislation around the position of mental health advocate was passed in the 1970's and it was mentioned there needs to be a review of the 229 system to decide how it should function.
- When an involuntary committed individual enters the department of correction system, does the role of the mental health advocate end? A mental health advocate indicated the position can continue when it is court ordered. Restrictions under the criminal process usually allow a mental health advocate to assist when care is denied or problems exist with medication with the committed individual.
- The state ombudsman office has received questions on whether mental health advocates can visit individuals in jail. Are they are required to visit and to continue with the filing of a quarterly report? A mental health advocate explained that contact is usually through a letter. If the individual is housed in a facility outside of the department of corrections visits may occur quarterly.
- When legal settlement ends, the portion pertaining to the mental health advocate in 229.19 will also need to be altered.
- It was stated that in Iowa code juveniles could be assigned a mental health advocate. Current confusion exists on who should be in the position of mental health advocate – a mental health advocate or an advocate of CASA. The CPCs interpret the funding of children differently and some counties only fund services for adults. Under 229 the county structure does pay for children; however, not all counties pay under fund 10 for juvenile commitment costs.
- It is difficult to be an employee of a county, yet not supervised by county staff.
- Four groups are to be funded under involuntary commitment: children, adults, substance abuse and disabilities. It is noted that substance abuse commitments are short term.
- It is felt that dual filings or co-occurring filing would provide a more holistic approach for the individual.
- Medicating against the will of the individual was discussed. If an individual does not make reasonable or rationale decisions regarding their health, are not taking care of self or are a threat to self or others, how should this be handled?
- A district court charge for medication was described along with the pick-up order if an individual is in custody or not in custody. Outpatient plans have to follow the treatment plan by the physician, and injections can be mandated. If an individual is refusing to take medication and danger is noted, a request can be made to the judge for inpatient treatment. Residential facilities do not force medication without a court order and the results of this can vary by judge, county and state.
- When there are delays in getting an attorney appointed problems are not resolved in a timely manner. An example was given of a 6-month time frame between when the mental health advocate was requested for an individual and when actually appointed.
- Frequency of mental health advocate involvement was discussed, as the duration for the individual committed can vary from 3 days to 28 years.

Termination of the advocate position occurs when a report is sent to the judge with an order and the individual no longer meets the committing criteria.

- Mental health advocates are able to assist when an individual does not feel their confinement is appropriate. An example was given that a judge may feel that outpatient commitment does not hurt an individual and will keep the order in place to allow them to keep receiving treatment (although was described as a controversial practice).
- The mental health advocate is required to be available to receive communications from the client and to communicate with the client directly within 5 days of the client's commitment.
- The mental health advocate can visit the client within 15 days of the commitment and periodically thereafter.
- Representative Smith requested commitment data for Iowa along with the demographics including minority status. Commitment data does exist however demographic data does not.
- Once the commitment for an individual is dropped, the county no longer receives funding for this individual. Juvenile individuals need to be court ordered for county payment.
- The question was asked if there are standards on reasons for removal or when commitment of an individual is dropped. Rational decisions regarding the treatment are the determiner and often it is the advocate who will bring this information to the court's attention.
- An example was given that commitments have been ordered in Iowa when there is not a funding source to receive treatment and when medical necessity drives this action. An example was given of individuals being committed to receive transportation with a 48-hour hold order so the sheriff / police would be required to transport and this action would reduce the hospital liability for questionable or unsafe transport.
- Reminder that 229.19 based on legal settlement is ending in 2013. All rules tied to legal settlement will also end.

Initial recommendation:

Role

- Review job description developed by JAMI and implement statewide.

Supervision

- The advocates need one single point of accountability that is independent and autonomous.
- One entity oversees training, supervision and audits.
- The majority recommended that this not be the judicial system but rather a different system perhaps like the public defender's office or the casa structure.

Funding

- The funding should be moved from the county to the state.
- Consistent reimbursement standards need to be developed.

Public Comment:

Comment: Recommendation to increase the starting hourly rate from \$10.00 and establish a cap. Establish an Iowa code referee position, and suggested the workgroup review the work compiled by JAMI regarding the mental health advocate position as it referenced in the required reading Mental Health Advocate Job Description.

Comment: Recommendation to include training on the mental health court system and the pertaining Iowa code for all mental health advocates. Would like to see the mental health advocate support substance abuse cases. Suggests mental health advocates be assigned by workload criteria and not regional criteria. Recommends that mental health advocates support the department of corrections system.

Comment: Minkoff and Cline have been working over the course of four years in Iowa on co-occurring disorders and research indicates that 50% of individuals with mental health diagnosis also have substance abuse diagnosis. Recommends that the two advocacy functions not remain separated and would like to see a co-occurring capable system that reflects the treats the whole person. Would prefer that when legal settlement dissolves that people 18 and over can be served by being a resident of Iowa and not a resident of a region. Agrees that 229 code language needs to be rewritten. Reminds the group that research shows that 505 of people with mental illness do not know they are ill. Posed the question, Do they have the right to remain ill? Encourages a whole person commitment process and not one broken down by diagnosis category.

Comment: Co-occurring assignment is appropriate for mental health advocates.

Comment: Recommendation to throw out Code 125.

Comment: Statement that it makes sense to have one committal standard although feels substance abuse advocacy should remain separate.

Comment: JAMI recommendations asked to be considered are: Create a chief advocate position, determine the number of advocates per district, and implement training and policies and procedures, crucial to remain autonomy in the position. Be appointed to dual filings.

Task: comprehensive training of law enforcement in dealing with persons in crisis

Presentation #2 and Discussion

Cyndee Davis and Kim Wadding, Law Enforcement Academy

- The Iowa Law Enforcement Academy has incorporated training on special needs, stress management and mental health education.
- At the academy level, recruit officers receive training on how to be safe and keep others safe. Mental health training is offered post academy as an in-service training option.
- Field training includes twelve hours of general training per year or 36 hours in 3 years. Firearm training is required on an annual schedule. Additional training is at the discretion of the commanding officer.
- Four hours of mental health and 4 hours of stress management are offered during field training. Twelve hours of Mental Health First Aid is offered once a cadet becomes an officer however it is not mandated.
- Update training is voluntary and available to all levels of rank in Iowa. See the Iowa Law Enforcement website for the catalog of courses.
www.state.ia.us/ilea/Specialty.htm
- Additional training mandates include mandatory reporting. Jail officers have 20 hours of annual in-service and departments have discretion on what is offered.
- 80% of academy graduates participate in the field training options.
- Within the 4-hour mental health course a portion is dedicated to community resource and referral.
- From the law enforcement perspective there are many roadblocks when trying to admit a person into an ER including the waiting period due to the weighing of critical priorities.
- Funding is critical to the orchestration of treatment and this also contributes to the roadblocks of the ER system.
- Cooperative relationships with community providers are helpful.
- There is more than one Iowa Law Enforcement Academy in Iowa and there is not a core curriculum requirement across the state.
- Length of training at the academy is not consistent.
- Training costs offered in the catalog are \$25.00 per officer through the Iowa Law Enforcement Academy and regional training is available.
- The Law Enforcement Academy would like to have more instructors trained as trainers for Mental Health First Aid.

Group Discussion and Initial Recommendations:

Comprehensive training of law enforcement in dealing with persons in crisis:

Issues:

- There is no standard training curriculum in Iowa.
- Delivery of training is not standard (hours and qualifications of the instructor and course content).
- Recommendation for mandated mental health training.
- How to fund CIT training.
- How to fund Mental Health First Aid training.

- Consumer participation in training is very important and impactful.
- Concern was expressed on the content and nature of the slides on how mental illness is portrayed in the required reading for the meeting: Required reading: Special Need Population.
- Accreditation standards recommended.
- Suggest to the regional workgroup for inclusion of what resources should be included for law enforcement.
- One contact source for resource availability including community resources and funding resource education.
- Noted that the percentage of training is very low compared to the high percentage of people incarcerated. It would be helpful to have data of the cost of incarcerated individuals with a mental illness, and training should correspond with that data.

Initial Recommendations:

- Strongly recommend that officers receive additional training in mental health each three-year period that could include CIT and Mental Health First Aid.
- Strongly recommend that consumers are part of the officer training in mental health.

Public Comment:

- Comment: Mental health training needs to be enhanced at the Iowa Law Enforcement Academy. An example was given of officers responding to people in crisis and using taser guns on people with mental illness and/or disabilities. Specifically mentioned is concern for people with autism or any kind of developmental disability filtering out stimuli. Training needs to include how to know the person in a crisis and de-escalate accordingly.
- Comment: Thankful that the Law Enforcement Academy gives 4 hours of training; however, feels it is a drop in a bucket compared to the need. Recommends Mental Health First Aid as a beginner's course (12 hour) and CIT (40 hour) as it has an emphasis on de-escalation.
- Comment: A recommendation to review the policy of entering a home of a person in crisis when there is no immediate danger to self or others. At times, the invasion of a home when classified as a crime scene ends in death.

Dan Royer from the Iowa Hospital Association

Research update was provided on a software option capable of tracking bed availability for involuntary commitments.

- The Iowa Department of Public Health's Center for Disaster Operations and Response has acquired a web-based application for hospitals to report capacity information.
- Recently piloted in 12 hospitals across the state, the Iowa Public Health Advanced Capacity Tracking System (I-PHACTS) system is designed to be used during public health emergencies to evaluate Iowa's medical infrastructure through collection of bed capacity data, staffing levels, and status of utilities such as water, power and natural gas. I-PHACTS allows for the collection of real-time data, which is vital to hospitals as decisions are made in an emergency.
- DHS and the Iowa Hospital Association have been discussing the possibility of utilizing this system to identify the availability of psych hospital beds across the state. The discussions are on hold with the redesign in process.

Adjourn

Next meeting is on October 6, 2011 at the Judicial Building.

For more information:

Handouts and meeting information for each workgroup will be made available at:

<http://www.dhs.state.ia.us/Partners/MHDSRedesign.html>

Website information will be updated regularly and meeting agendas, minutes, and handouts for the six redesign workgroups will be posted there.